

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

ERODE ARILUS,	:	
	:	
Petitioner,	:	No. 4:CV-05-0123
	:	
vs.	:	Petition Filed 01/18/05
	:	
THOMAS HOGAN, ET AL.,	:	(Judge Muir)
	:	
Respondents	:	

ORDER

June 29, 2005

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Petitioner Erode Arilus is a native and citizen of Haiti who is currently in the custody of the United States government at the York County Prison based upon the issuance of a final order to deport him to his native country. His alien number is A43 673 874. Arilus is represented by counsel and on January 18, 2005, filed in this court a petition for writ of habeas corpus and a motion to stay his deportation. By order dated February 24, 2005, we stayed Arilus's removal pending our disposition of his petition. In his habeas petition, Arilus seeks to defer his removal from the United States pursuant to the United Nations Convention Against Torture.

On June 8, 2005, the government filed a motion to transfer this case to the United States Court of Appeals for the Third Circuit. A supporting brief was filed with the motion. The time

allowed for Arilus to file an opposition brief expired on June 27, 2005, and to this date no such brief has been filed.

The REAL ID Act of 2005 provides that the Court of Appeals with jurisdiction over the initial administrative immigration proceedings is the proper forum in which to raise claims based on the Convention Against Torture. The initial administrative immigration proceedings in this case were in York, Pennsylvania. We will grant the motion to transfer this case to the Court of Appeals for the Third Circuit based on the merit of the government's motion and Arilus's failure to oppose the motion. See M.D. Local Rule 7.6 (party who fails to file opposition brief "shall be deemed not to oppose such motion.")

NOW, THEREFORE, IT IS ORDERED THAT:

1. The above-captioned case is transferred to the Court of Appeals for the Third Circuit pursuant to the REAL ID Act of 2005 as a petition for review.
2. The Clerk of Court shall transmit the entire record and a copy of this order to the Court of Appeals for the Third Circuit either in paper form or electronically.
3. The Clerk of Court shall close the case in this court.

s/Malcolm Muir
MUIR, U. S. District Judge

MM:ga